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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 53 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE FERTILIZERS CO LTD

Versus

COMMISSIONER OF INCOME-TAX

Appearance:

1. INCOME TAX REFERENCE No. 53 of 1989
MR MJ SHAH for Petitioner No. 1
MR BB NAIK with MR MANISH R BHATT for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 04/10/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the assessee, the following question is referred for the opinion of this Court in respect of assessment year 1980-81 :-

"Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that the appellant was not entitled to interest under sec. 244(1A) of the Income-tax Act as the refund is out of tax paid under sec. 140A(1) of the Income-tax Act ?"

2. We have heard Mr Manish J Shah, learned counsel for the assessee and Mr BB Naik, learned counsel for the revenue.

3. The learned counsel for the assessee submits that in CIT vs. Gujarat State Warehousing Corporation, Income-tax Reference No. 83 of 1987 decided on 28.8.2001, this Court has followed the decision of the Apex Court in Modi Industries Ltd. vs. CIT, 216 ITR 759 as explained by the Punjab & Haryana High Court in CIT vs. Hansa Agencies Pvt. Ltd., 234 ITR 271 and by the Karnataka High Court in CIT vs. NGEF Ltd., 244 ITR 665.

4. Following the aforesaid decision, we answer the question in the affirmative i.e. in favour of the assessee and against the revenue.

5. The reference accordingly stands disposed of with no order as to costs.

(M.S. Shah, J.)

(D.A. Mehta, J.)

sundar/-